

# HOUSE BILL REPORT

## ESB 5530

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**As Reported by House Committee On:**  
Financial Institutions & Insurance

**Title:** An act relating to prohibiting discrimination in life insurance based on lawful travel destinations.

**Brief Description:** Prohibiting discrimination in life insurance based on lawful travel destinations.

**Sponsors:** Senators Kline, Esser, Weinstein, Roach, Fairley, Franklin and Kohl-Welles.

**Brief History:**

**Committee Activity:**

Financial Institutions & Insurance: 3/29/05, 3/31/05 [DPA].

**Brief Summary of Engrossed Bill**  
**(As Amended by House Committee)**

- Prohibits life insurers from taking underwriting actions or charging different rates based upon the applicant's or insured person's past or future lawful travel unless bona fide statistical differences in risk or exposure have been substantiated.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass as amended. Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, O'Brien, Santos, Serben, Simpson, Strow and Williams.

**Staff:** Jon Hedegard (786-7127).

**Background:**

The Office of the Insurance Commissioner (OIC) is responsible for the regulation of life insurance in the State of Washington. The OIC is authorized to regulate both the rates and contracts of the companies doing business in this state.

Under current law, insurers are not allowed to make or permit any unfair discrimination between insureds or subjects of insurance that have "substantially like insuring, risk, and exposure factors, and expense elements" in contract terms, rates or benefits the terms. A life insurer is allowed to "fairly" discriminate between individuals having unequal expectation of life.

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**Summary of Amended Bill:**

Generally, a life insurer may not take the following actions if the actions are based upon the applicant or insured person's past or future lawful travel destinations:

- deny or refuse to accept an application for insurance;
- refuse to insure;
- refuse to renew;
- cancel;
- restrict;
- otherwise terminate a policy of insurance; or
- charge a different rate for the same coverage

A life insurer may exclude or limit coverage of specific lawful travel, or charge a differential rate for the coverage, when bona fide statistical differences in risk or exposure have been substantiated.

**Amended Bill Compared to Original Bill:**

Language permitting exclusions, limitations and different rates when the action of the life insurer is based on sound actuarial principles is changed. The new language allows the actions by a life insurer when bona fide statistical differences in risk or exposure have been substantiated.

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**Appropriation:** None.**Fiscal Note:** Not requested.**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.**Testimony For:** (In support) Some people have a religious obligation to go to certain destinations, such as Israel and Mecca. When the insurance industry specifies that travel to certain countries could lead to denial of coverage or higher rates, it is a problem for everyone. The industry should have to use statistics rather than rely on anecdotes. The industry's current system does not differentiate between areas in a country that may be very safe and other areas that are dangerous. The entirety of a country is given the same assessment. It would make more sense to use a system that is based on what a reasonable person might expect. Industry should have to detail how risk is classified.

Life insurers support the Senate bill as it came to this committee. Life insurers underwrite fairly based on actual risk. There is no evidence to the contrary. The industry has documented statistics that indicate some places are more dangerous than other places. The more accurately risk is assessed, the fairer the rates for everyone. Every insurer is different and consumers have the ability to shop around and find coverage. Once a policy is written, the insurer pays

the claim. As written, the bill allows the Insurance Commissioner to make sure that insurers are using sound actuarial principles in assessing risk. Risk is always evolving and insurers should be able to use sound principles to make determinations. Insurers will never be able to predict future travel to countries or to regions within countries exactly. Insurers can use past and current information to make reasonable assessments. The bill is workable as drafted. The language in SHB1561 would require decisions based on all countries compared to each other. This would be very difficult. The insurance industry needs to be able to use insurance principles and concepts. The industry does not want to develop exclusions to prevent paying claims. Life insurance is used for financial planning. If a covered person dies, the beneficiary should be paid. This means that life insurers must be able to accurately rate the risk at the time the policy is made.

(With concerns) Legislation on this subject is necessary. The language in SHB1561 is preferable to the language in the bill. Insurers use the United States Department of State travel advisory list to make decisions. This list is not driven by statistics. In 2004, not one tourist to Israel died from an act of terrorism. Travel to Israel was safer than travel in the United States. The "sound actuarial principles" language is unclear. It does not provide adequate guidance. It would not prevent the current denials on applications for life insurance policies. The language in the bill does not protect travelers to Israel. Industry has used their principles but applied the principles to flawed data and the results were flawed.

**Testimony Against:** None.

**Persons Testifying:** (In support) Senator Kline, prime sponsor; John Mangan, American Council of Life Insurers; Mel Sorensen, National Association of Insurance and Financial Advisers; Jean Leonard, State Farm Insurance; and Mike Kappahn, Farmers Insurance.

(With concerns) David Cohen, and Ron Jacobs, Anti Defamation League of the Northwest.

**Persons Signed In To Testify But Not Testifying:** None.